

HEALTH SERVICES AND DEVELOPMENT AGENCY

MINUTES

October 28, 2015

AGENCY MEMBERS PRESENT

Johnson, D. Lynn, Chair
Wright, James, Vice-Chair
Doolittle, Robert S.
Burns, Charlotte
Fleming, Martin, M.D.
Mills, Thom
Grandy, Joe
Gaither, Keith, designee for the TennCare Director
Austin, Jaclyn, designee for the Comptroller of the Treasury
Jordan, Lisa, designee for the Commissioner of Commerce and Insurance

AGENCY MEMBERS ABSENT

Ridgway, Corey

AGENCY STAFF PRESENT

Hill, Melanie, Executive Director
Ausbrooks, Mark, Administrative Assistant III
Christoffersen, Jim, General Counsel
Craighead, Alecia, Statistical Analyst III
Earhart, Phillip, HSD Examiner
Farber, Mark, Deputy Director
Finchum, Rhonda, Administrative Officer
Grimm, Jeff, HSD Examiner

COURT REPORTER

Deen, Meschelle Manley

GUESTS PRESENT

Anderson, Vickie, Cedar Hill Community
Baker, Lynette, Director, NorthCrest Medical Center
Beard, Angela, RN, NorthCrest Medical Center
Boyter, Alfred, Director Facility Planning, NorthCrest Medical Center
Brent, Michael D., Esq., Bradley Arant Boult Cummings, LLP
Butler, Scott, CAO, Howell Allen Clinic
Caples, Greg, COO, TriStar Summit Medical Center
Carpenter, Emily, Vanderbilt
Colen, Tim, Cedar Hill Community
Costello, Amanda, Coordinator, NorthCrest Medical Center
Crosby, Cheryl, AmSurg
Davis, Randy, CEO, NorthCrest Medical Center
DeBerry, Robert, Community Development, NorthCrest Medical Center
Dew, Jeff, CEO, Gastrointestinal Associates
Dillinha, Donna, RN, NorthCrest Medical Center
Duncan, Bruce, Assistant Vice President, National HealthCare Corporation
Dyer, Debbie, Physicians Liason, NorthCrest Medical Center
Estes, Blake, Executive Director of Planning, Saint Thomas Health
Felts, Ginna, Business Development, Vanderbilt University Medical Center
Followell, Rob, CEO, Tennova North Knoxville Medical Center
Franks, Martin, Architect, HFR Design, Inc.

Gooch, Warren L., Esq., Kramer Rayson, LLP
 Goodman, Rachel, EMT, NorthCrest Medical Center
 Greene, Scott, IT, Gateway Medical Center
 Harris, Vernetta, M.D., Medical Director Emergency Department, NorthCrest Medical Center
 Herman, Mike, CEO, Sumner Regional Medical Center
 Horvath, Mike, Regional Vice President, Alere Women's and Children's Health
 Jansen, Rick, Director, Robertson County EMS
 Johns, Ginger, Director, NorthCrest Medical Center
 Jones, Elizabeth, Assistant Director, TDH, Division of Health Planning
 Kettenbrink, John, Principal, LMH Architecture
 Killian, Thomas, M.D., Gateway Medical Center
 Kisber, Paige, President, Hospital Alliance of Tennessee
 Klein, Kyle, ACFO, Gateway Medical Center
 Lloyd, Sara, COO, Tennova North Knoxville Medical Center
 Looney, Kim, Esq., Waller Lansden Davis and Dortch
 Lopata, Scott, M.D., Regional Director CEP America/NorthCrest Medical Center
 Lowe, Connie, Cedar Hill Community
 Mann, Rhonda, CNO, Gateway Medical Center
 Maples, Arthur, Director Government Operations, Baptist Memorial Health Care Corporation
 Marsh, Mark, CEO, Gateway Medical Center
 Martin, Benita, Marketing, Gateway Medical Center
 Milner, Laura, RN, Alere Women's and Children's Health
 Minton, Angie, RN, Clinical Program Manager, NorthCrest Medical Center
 Molsberger, Shawn, Gateway Medical Center
 Moore, Sophie, Communications, CHS
 Muiznieks, Mark, Emergency Room Medical Director, Gateway Medical Center
 Nava, Guillermo, M.D., Gateway Medical Center
 O'Malley, Mike, Chairman, Clarksville/Montgomery County Community Health Foundation
 Overholt, Bergein, M.D., Gastrointestinal Associates
 Payne, Jana, RN, NorthCrest Medical Center
 Phillips, W. Brantley, Esq., Bass Berry & Sims
 Pierce, Lois, RN, Alere Women's and Children's Health
 Pitt, Tammy, Cedar Hill Community
 Pratt, Bailery, CFO, Saint Thomas Health
 Pridgen, Kim, CFO, NorthCrest Medical Center
 Roberts, Kerry, State Senator
 Reed, Ann, R., RN, BSN, MBA, Director of Licensure, TDH, Division of Health Care Facilities
 Sanders, John, Plant Ops, NorthCrest Medical Center
 Sanders, Patty, PTAC Coordinator, NorthCrest Medical Center
 Sansing, Trent, CON Director, TDH
 Scott, Tom, Accountant, AmSurg
 Tahir, Fahad, CEO, Saint Thomas Medical Partners
 Taylor, Jerry W., Esq., Burr & Forman
 Timmermeier, Ace, Customer Experience, NorthCrest Medical Center
 Trauger, Byron R., Esq., Trauger & Tuke
 Walker, Kimberly, Human Resources Director, NorthCrest Medical Center
 Walsh, Kimberly, Division Vice President, AmSurg
 Walton, Jessica, RN, NorthCrest Medical Center
 Watts, Adele, Director, NorthCrest Medical Center
 Weaver, Ann, Clinical Coordinator, NorthCrest Medical Center
 Webb, Bill, Assistant Chief, Montgomery County EMS
 Wellborn, John L., Consultant, Development Support Group
 Whitehorn, Jeff, CEO, TriStar Summit Medical Center
 Wilson, Teresa, Accountant, NorthCrest Medical Center

ROLL CALL TO ESTABLISH QUORUM

Mr. Johnson requested roll call to establish quorum.

PRESENT: Jordan, Mills, Gaither, Wright, Doolittle, Burns, Austin, Fleming, Grandy, Johnson

Ten (10) members present.

DIRECTOR'S ANNOUNCEMENTS

Melanie Hill, Executive Director, made general announcements regarding the following:

- 1) Instructions were provided for those providing testimony on the scheduled agenda items;
- 2) Four applications are scheduled for review in November and December, and possibly eight in January;
- 3) VHA Enterprises, Item C. on the Agenda under the General Counsel's Report has been deferred to the November calendar;
- 4) Meeting dates for November and December will be November 18th and December 16th. The Audit Committee will meet at the conclusion of the November agency meeting.
- 5) The Senate Commerce and Labor Study Committee on Senate Bill 992 which proposes to eliminate most healthcare services from Certificate of Need is set to be heard on November 16th at 9 am in room 12. Members of the Committee are Senator Gardenhire (Chairman), Senator Green and Senator Watson.

APPROVAL OF MINUTES

Mr. Johnson presented September 23, 2015 minutes for approval.

Mr. Mills moved for approval of the minutes as presented. Mr. Wright seconded the motion. The motion CARRIED [10-0-0]. **APPROVED by unanimous voice vote**

AYE: Jordan, Mills, Gaither, Wright, Doolittle, Burns, Austin, Fleming, Grandy, Johnson

NAY: None

STATE HEALTH PLAN UPDATE

Elizabeth Jones, Assistant Director, Division of Health Planning, Department of Health, presented a brief update as follows:

1. The 2014 update to the State Health Plan is now posted to the website;
2. The draft standards for Psychiatric inpatient services and Neo-natal Intensive Care Units are currently being revised and will be sent out for comments soon.

CONSENT CALENDAR APPLICATIONS

Melanie Hill summarized the following Consent Calendar Applications and confirmed there was no opposition to any of them.

The Endoscopy Center of Knoxville - (Knoxville, Knox County), TN - Project No. CN1508-030

Mr. Doolittle recused.

To relocate The Endoscopy Center of Knoxville, an existing single specialty ASTC limited to endoscopy, from 801 Weisgarber Road, Suite 100, Knoxville to an unaddressed site in the northwest quadrant of the intersection of Middlebrook Pike and Dowell Springs Boulevard in Knoxville, Tennessee, a distance of

approximately 1.4 miles. As a part of the project, the applicant will reduce its existing surgical complement from 8 to 6 procedure rooms. The estimated project cost is \$13,791,719.

Need- The need to relocate and replace the 29-year old ambulatory surgical treatment center is well established. The physical space will expand from 3,686 SF to 16,732 SF. The new design will provide a more functional and efficient work space. The 1.4 mile distance from the existing site will continue to serve the health needs of the existing patient base. Economic Feasibility- While the total project cost is \$13,791,719, it includes the 15 year lease. The actual capital cost of \$6.9 million is being funded through a loan from the applicant's general partner, AmSurg KEC, Inc. Contribution to the Orderly Development of Health Care-The project does contribute to the orderly development of health care because the new location will provide more suitable space and permit it to expand its service hours. The applicant is contracted with three of four TennCare MCOs in the service area and has a contract under review with the 4th.

Mr. Grandy moved for approval of the project based on Ms. Hill's justification. Ms. Burns seconded the motion. The motion CARRIED [9-0-0]. **APPROVED**

AYE: Jordan, Mills, Gaither, Wright, Burns, Austin, Fleming, Grandy, Johnson

NAY: None

Tennova--Healthcare LaFollette Medical Center- (LaFollette, Campbell County), TN - Project No. CN1508-032

To initiate extracorporeal shockwave lithotripsy (ESWL) services up to 3 days/week on the hospital campus through the use of a leased mobile lithotripsy unit. The service area consists of Campbell, Claiborne, and Scott Counties. The estimated project cost is \$440,203.

Need- Need is met, as this service will improve access to lithotripsy services especially for older citizens and the TennCare population. The availability of a urologist in the service area who will utilize the service should reduce outmigration and the costs associated with it (travel time for patients and the costs associated with travel-time off work and fuel costs). Economic Feasibility- Economic Feasibility is met as Community Health Systems, the parent company, has committed to funding the project. Since there is no actual capital outlay due to the per-click lease arrangement, there is little financial risk. Contribution to the Orderly Development of Health Care- Orderly Development is demonstrated since this will make the service available to residents who currently are required to travel out of the service area for treatment.

Mr. Doolittle moved for approval of the project based on Ms. Hill's justification. Mr. Grandy seconded the motion. The motion CARRIED [10-0-0]. **APPROVED**

AYE: Jordan, Mills, Gaither, Doolittle, Wright, Burns, Austin, Fleming, Grandy, Johnson

NAY: None

Saint Thomas Health - (Nashville, Davidson County), TN - Project No. CN1508-033

Dr. Fleming and Ms. Burns recused.

To acquire the existing magnetic resonance imaging unit (MRI) approved in Neurological Surgeons, P.C, CN9902-013AM and initiate MRI services with no change in the location of the medical group's location at 2214 Elliston Place, Suite 200, Nashville (Davidson County), Tennessee. The estimated project cost is \$2,213,165.44.

Need- The MRI in this project is part of an existing physician practice that has been highly utilized and is expected to continue to be highly utilized due to the Saint Thomas Network. This is simply a change of ownership of an existing MRI. Economic Feasibility-The project will be funded from the cash reserves of Saint Thomas Health. Contribution to the Orderly Development of Health Care-This is simply a change of ownership of an existing well-utilized MRI. There is a potential for expanded participation due to Saint Thomas Network's

health insurance contracts with major payor sources, including TennCare MCO plans. Since a new MRI is not being added, there is no duplication of services.

Mr. Wright moved for approval of the project based on Ms. Hill's justification. Mr. Grandy seconded the motion. The motion CARRIED [8-0-0]. **APPROVED**

AYE: Jordan, Mills, Gaither, Doolittle, Wright, Austin, Grandy, Johnson
NAY: None

CERTIFICATE OF NEED APPLICATIONS

Mark Farber summarized the following CON Applications:

Hero Healthcare, (Oliver Springs, Morgan County), TN – CN1504-012

To establish a home care organization and initiate home health services limited to a specific patient, who is a beneficiary of the United States Department of Labor, Division of Energy Employees Occupation Illness Compensation Program (EEOICP). The parent office will be located at 231 Walls Hollow Road, Oliver Springs (Morgan County), Tennessee. The proposed service area is Anderson and Morgan Counties. The estimated project cost is \$29,680. **DEFERRED FROM AUGUST MEETING; 2nd DEFERRAL FROM SEPTEMBER MEETING; APPLICATION ON HOLD, PENDING RESOLUTION OF DAVIDSON COUNTY CHANCERY COURT PETITION FILED BY THE APPLICANT.**

Alere Women's and Children Health, LLC - (Nashville, Davidson County), TN - Project No. CN1506-025

Mr. Mills recused.

The applicant is a home health organization licensed by the Tennessee Department of Health whose parent office is located at 1926 Hayes Street, Suite 111, Nashville, TN. The project will not change the parent office of the applicant nor will it change the provision of services exclusively limited to the care of high-risk obstetrical patients with antepartum and postpartum needs. A wholly owned subsidiary of United Health Group seeks Certificate of Need approval for the addition of 22 counties, including Cannon, Clay, Cumberland, DeKalb, Fentress, Franklin, Giles, Humphreys, Jackson, Lawrence, Lewis, Lincoln, Macon, Moore, Overton, Pickett, Putnam, Smith, Stewart, Trousdale, Van Buren, and White Counties, to its existing 14 county service area approved under Matria Healthcare, Inc., CN9807-043A. The total estimated project cost is \$84,000.00.

Brant Phillips, Esq., addressed the Agency on behalf of the applicant.

Speaking in opposition was Kim Looney, Esq., on behalf of Gentiva Health Services.

Summation waived.

Ms. Jordan moved for approval of the project with the following **CONDITION: Limited to high risk obstetrical patients with antepartum and postpartum needs.** 1) Need – there is a need established for these specialized obstetrical services to reduce the relatively high number of preterm births in Tennessee and therefore reduce the health complications for those newborns and mothers.; 2) Economic Feasibility – The cost for implementation is minimal, and it can be funded by cash reserves. And it would also have a positive financial impact on the health care system, particularly the TennCare program, by helping to reduce costs; and 3) The project does contribute to the orderly development of adequate and effective health care by serving mostly TennCare enrollees, and there would not be a duplication of services already provided by other health agencies in the service area. Mr. Doolittle seconded the motion. The motion CARRIED [9-0-0]. **APPROVED**

AYE: Jordan, Gaither, Doolittle, Wright, Burns, Austin, Fleming, Grandy, Johnson
NAY: None

Simultaneous Review:

Simultaneous Review - Gateway Medical Center Satellite Emergency Department at Sango, Sango (Montgomery County), TN CN1507-027 and NorthCrest Medical Center, Clarksville (Montgomery County), TN CN1507-028 will be heard as a simultaneous review.

Presentations:

Ms. Burns recused.

Chairman Johnson left the meeting during Agency questions and Vice-Chair Wright continued.

Emergency Department of Gateway Medical Center - (Clarksville, Montgomery County), TN - Project No. CN1507-027

To establish a full service, 24 hour per day/7 day per week satellite emergency department to be located at an unnamed street address on the north side of Highway 76 approximately 1,400 feet east of I-24 at exit 11 in Sango (Montgomery County), Tennessee 37043. The proposed facility will be operated as an offcampus emergency department of Gateway Medical Center and will have 8 treatment rooms providing Level I through V emergency treatment services and will include ancillary services including but not limited to medical lab, CT, X-Ray and ultra-sound. The project does not contain major medical equipment, initiate or discontinue any other health service or affect the hospital's licensed 270 bed complement. The estimated project cost is \$10,700,000.

Jerry Taylor, Esq. and Mark Marsh, CEO, Gateway Medical Center addressed the Agency on behalf of the applicant.

Speaking in support were: Mark Muiznieks, Emergency Room Medical Director, Gateway Medical Center; Bill Webb, Assistant Chief, Montgomery County EMS; Guillermo Nava, M.D., Gateway Medical Center; Mike O'Malley, Chairman of Clarksville/Montgomery County Community Health Foundation; and Thomas Killian, M.D.

Speaking in opposition was Kim Looney, Esq.

NorthCrest Medical Center - (Clarksville, Montgomery County), TN - Project No. CN1507-028

The applicant seeks Certificate of Need approval to establish a full service, 24 hour per day/7 day per week satellite emergency department to be located at an unnamed street address near the intersection of Gateway Plaza Boulevard and TN Highway 76 in Clarksville (Montgomery County), Tennessee 37043. The proposed facility will be operated as a satellite emergency department of NorthCrest Medical Center and will have 8 treatment rooms and will provide emergency diagnostic and treatment services. The project does not contain major medical equipment, initiate or discontinue any other health service or affect the hospital's licensed 109 bed complement. The primary service area consists of a 7 zip code area, including two in Robertson County and five in Montgomery County. The total estimated project cost is \$6,890,427.66.

Kim Looney, Esq. and Randy Davis, CEO, NorthCrest Medical Center, addressed the Agency on behalf of the applicant.

Speaking in support were: Sott Lopata, M.D., Regional Director CEP America/NorthCrest Medical Center; Robert DeBerry, Community Development, NorthCrest Medical Center; Kim Pridgen, CFO, NorthCrest Medical Center; Paige Kisber, President, Hospital Alliance of Tennessee; Vernetta Harris, Medical Director Emergency Department; Tammy Pitt; Connie Lowe; Vickie Anderson; Rick Jansen, Director, Robertson County EMS; and Kerry Roberts.

Speaking in opposition was Jerry Taylor, Esq.

Rebuttals

Mr. Taylor and Mr. Marsh rebutted for Gateway Medical Center

Ms. Looney and Mr. Davis rebutted for NorthCrest Medical Center.

Summations

Mr. Taylor summated for Gateway Medical Center.

Ms. Looney summated for NorthCrest Medical Center.

Motions

Emergency Department of Gateway Medical Center - (Clarksville, Montgomery County), TN - Project No. CN1507-027

Mr. Doolittle moved for approval of the project based on: 1) Need – The need is there based on the utilization of those facilities; 2) Economic Feasibility – The financial viability is indicated by the financials of the Emergency Department itself, and also it has the support, obviously, of a much larger organization; Community Health Services. The project is economically feasible and cash reserves are available; and 3) The project does contribute to the orderly development of adequate and effective health care given the proximity of the proposed facility to the hospital, with the attendant and perhaps slightly lower profile of being able to transfer immediately should someone show up with a more serious problem in the satellite to the existing hospital six or eight miles down the road, in those three or four zip codes, and that general market. Mr. Grandy seconded the motion. The motion CARRIED [5-3-0]. **APPROVED**

AYE: Jordan, Mills, Doolittle, Burns, Austin, Grandy

NAY: Gaither, Wright, Fleming

NorthCrest Medical Center - (Clarksville, Montgomery County), TN - Project No. CN1507-028

Ms. Jordan moved for denial of this application because it does not contribute to the orderly development of health care, due to its proposed location and its service area. I believe it promotes more out-migration of services, taking people from Montgomery County out of Montgomery County, either to Robertson County or to Davidson County, to get the services that they might need at a host hospital or at a hospital. Mr. Gaither seconded the motion. The motion CARRIED [8-0-0]. **DENIED**

AYE: Jordan, Mills, Gaither, Doolittle, Austin, Fleming, Grandy, Wright

NAY: None

GENERAL COUNSEL'S REPORT

Jim Christoffersen summarized the following CON modification requests:

Metro Knoxville HMA, LLC d/b/a Tennova Healthcare – North Knoxville Medical Center (f/k/a Mercy Health System, Inc. d/b/a Mercy Medical Center North), Powell (Knox County), TN – Project No. CN1106-019AE

- Request for a 1 year extension of the expiration date from December 1, 2015 to December 1, 2016. This request is for the 2nd extension. The original expiration date of December 1, 2014 was extended to December 1, 2015 on November 19, 2014 by a unanimous vote. This request was **DEFERRED FROM THE SEPTEMBER MEETING** so the modification to increase the project cost could be heard simultaneously.
- Modification of the certificate of need to increase the total project cost from \$4,694,671 to \$5,900,000, a difference of \$1,205,329.

The project was unanimously approved on October 26, 2011 for the acquisition of a second linear accelerator to be located and utilized on the Tennova Healthcare – North Knoxville Medical Center campus.

Warren Gooch, Esq., addressed the Agency on behalf of the applicant.

Ms. Burns moved for approval of the project for a one-year extension, from December 1st, 2015 to December 1st, 2016, and also recommended approval of the modification of the certificate of need for the cost difference of 1.2 million dollars. Mr. Wright seconded the motion. The motion CARRIED [9-0-0]. **APPROVED**

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AYE: Jordan, Mills, Gaither, Doolittle, Burns, Austin, Fleming, Grandy, Wright
NAY: None

Baptist Plaza Surgicare, Nashville, (Davidson County), TN — Project No. CN1307-029AM

Ms. Burns recused.

Request for an 18-month extension from December 1, 2015 to June 30, 2017.

The project was unanimously approved on October 23, 2013 for the relocation and replacement of the existing ASTC from 2011 Church Street, Medical Plaza I Lower Level, Nashville (Davidson County), TN 37203 to the northeast corner of the intersection of Church Street and 20th Avenue North, Nashville (Davidson County), TN 37203. The facility will be constructed in approximately 28,500 SF of rentable space in a new medical office building and will contain nine operating rooms and one procedure room. The estimated project cost was \$29,836,377.00. On July 23, 2014, a request to decrease the project cost from \$29,836,377 to \$19,053,078 and to increase the square footage from 28,500 SF to 30,000 SF, with no increase in the number of operating rooms or procedure rooms was approved. It was determined that the move of the project within the campus of Saint Thomas Midtown Hospital did not require Agency approval, as the campus was considered within the definition of the CON's location.

Byron Trauger, Esq., addressed the Agency on behalf of the applicant.

Ms. Jordan moved for approval of the project for an 18-month extension, from December 1st, 2015 to June 30th, 2017. Mr. Grandy seconded the motion. The motion CARRIED [8-0-0]. **APPROVED**

AYE: Jordan, Mills, Gaither, Doolittle, Austin, Fleming, Grandy, Wright
NAY: None

VHA Enterprises, Inc., Project No. 87-CN-032A.

Request for modification to convert mobile MRI services to a fixed location at 1424 Baddour Parkway, Suite G., Lebanon (Wilson County), TN 37087. If the modification is approved, the CON holder (Insight Health Services Corp.) would no longer be permitted to offer MRI services anywhere else.

VHA Enterprises, Inc. was approved for the provision of magnetic resonance imaging services at health care providers in the following counties: Bedford, Cannon, Cheatham, Coffee, Davidson, Dickson, Giles, Hickman, Houston, Lawrence, Lewis, Marshall, Maury, Montgomery, Robertson, Rutherford, Stewart, Wayne, Williamson, and Wilson. **DEFERRED TO NOVEMBER MEETING.**

CONTESTED CASES UPDATE

Mr. Christoffersen provided an update on contested cases.

ADJOURNMENT

There being no further business, the meeting adjourned.



Melanie M. Hill, Executive Director

* Minutes provide only a brief staff summary of the meeting and are not intended to be an all-inclusive report. The HSDA maintains a detailed record of each meeting (recording and transcript) that is available upon request by contacting the HSDA office at 615-741-2364.